

REMARKS

Claims 1, 2, 12, 13, 15, and 17 were pending in the application. Claim 1 has been amended. Applicants note that all references to page/line numbers in the amendments to the specification refer to the page/line numbers of the application as originally filed. No new matter has been added by way of the amendment to claim 1. Applicants reserve the right to pursue the subject matter of the cancelled claims in this or a separate application. Applicants thank the Examiner for the withdrawal of certain rejections. Applicants further thank the Examiner for the courtesy of a telephone conference regarding the pending claims.

Rejection of Claims 1, 2, and 17 Under 35 U.S.C. §102(e)

Claims 1, 2, and 17 remain rejected under 35 U.S.C. §102(e) as being anticipated by Wei et al., U.S. Patent No. 6,410,506 B1. The Examiner relies on Wei et al. as teaching “an amino acid sequence comprising the sequence represented by SEQ ID NO:38.” Specifically, the Examiner relies on SEQ ID NO:13 of Wei et al. as anticipating the instant claims.

Applicants respectfully traverse this rejection. However, in the interest of expediting prosecution, and in no way conceding to the validity of the rejection, Applicants have amended claim 1. As amended, claim 1 is directed to a betacellulin mutein or a salt thereof *consisting of* the amino acid sequence represented by SEQ ID NO:38. Applicants submit that, as amended, claim 1 is not anticipated by Wei et al. Applicants further submit that claims 2 and 17, which depend from claim 1, are also not anticipated by Wei et al.

As discussed in Applicants’ previous response, in order to anticipate a claim, a prior art reference must disclose each and every element of that claim. The sequence disclosed by Wei et al. is a 177 amino acid polypeptide. Wei et al. does not specifically disclose the isolated polypeptide of SEQ ID NO:38, or specify the desirability of using a peptide comprising this specific sequence. Furthermore, Wei et al. does not disclose a polypeptide of SEQ ID NO:38, wherein the pancreatic β cell differentiation promoting activity is preserved, and the epithelial cell growth promoting activity is reduced.

In view of the forgoing, Applicants submit that claims 1, 2, and 17 are novel and respectfully request reconsideration and withdrawal of the rejection of these claims under 35 U.S.C. §102(e).

Objection to Claims 12, 13, and 15

Claims 12, 13, and 15 have been objected to because they depend from a rejected claim. Applicants submit that, in view of the amendment to claim 1, claims 12, 13, and 15 depend from an allowable claim, and respectfully request reconsideration and withdrawal of the objection.

CONCLUSION

It is believed the application is in condition for immediate allowance, which action is earnestly solicited. If a telephone conference with Applicants' agent would facilitate allowance, the Examiner is invited to call the undersigned at the telephone number listed below.

Respectfully submitted,



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